

REMARKS

In response to the Office Action dated July 7, 2009, claims 16-19, 22-24 and 27-30 have amended. Claims 1-15 have been canceled. Claims 16-32 are pending in the application.

On page 6 of the Office Action, claims 16-32 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

Applicant respectfully traverses the rejection, but in the interest of expediting prosecution has amended the claims to overcome the rejection. Applicant respectfully submits that the amendment to the claims does not narrow the scope of the claims, but rather merely clarifies the invention

On page 8 of the Office Action, claims 16-21 and 24-32 were rejected under 35 U.S.C. § 103(b) as being unpatentable over Fries in view of Alexander.

On page 15 of the Office Action, claims 22-23 were rejected under 35 U.S.C. § 103(b) as being unpatentable over Fries in view of Alexander, and in further view of Lawler and Matthews.

On page 17 of the Office Action, claims 16-21 and 24-32 were rejected under 35 U.S.C. § 103(b) as being unpatentable over Fries in view of Tomsen.

On page 24 of the Office Action, claims 22-23 were rejected under 35 U.S.C. § 103(b) as being unpatentable over Fries in view of Tomsen, and in further view of Lawler and Matthews.

Applicant respectfully traverses the rejection, but in the interest of expediting prosecution has amended claims to more particularly distinguish the invention over the cited reference.

Independent claim 16 sets forth receiving broadcast audio and video content along with a promotional metadata file associated with the broadcast audio and video content, the promotional metadata file including a plurality of data items, the data items including a promotion type, the promotion type including at least one of: a purchasable event or an interactive advertisement,

storing the promotional metadata file and parse the promotional metadata file, receiving a user selection to view the promotion type of the promotional metadata file, presenting the promotion type to the user, the promotion type including a selectable option for the user to store the promotion type on a user-defined storage device for future viewing, during presentation of the promotion type, receiving a user selection to store the promotion type for future viewing of the promotion type on the storage device and storing the promotion type for future viewing of the interactive advertisement on the storage device. Independent claim 27 sets forth similar elements.

In contrast, Fries merely describes the subscriber tuning to a specified channel, wherein the browser provides the subscriber with a page image having page elements displayed thereon including links to other information. Television stations, advertisers, pollsters and the like may obtain rights to have one or more page images transmitted on the cable medium for potential viewing by the consumer end-user.

However, Fries fails to disclose, teach or suggest receiving broadcast audio and video content along with a promotional metadata file associated with the broadcast audio and video content. Rather, Fries specifically teaches that the channel reserved for the Information Service is otherwise unused for programming.

Fries also does not disclose storing the promotional metadata file and parsing the promotional metadata file. Fries does not disclose receiving a user selection to view the promotion type of the promotional metadata file associated with the broadcast audio and video content.

Fries does not suggest presenting the promotion type associated with the broadcast audio and video content to the user including a selectable option for the user to store the promotion type on a user-defined storage device for future viewing during presentation of the promotion type.

Further, Fries does not suggest receiving a user selection to store the promotion type for future viewing of the promotion type on the storage device.

Alexander fails to remedy the deficiencies of Fries. Alexander discloses an advertisement that is linked to time and channel of an infomercial that “will” be telecast so the viewer can record the infomercial at the later time. Alexander also discloses a virtual channel ad for programs that is linked to a time and channel of the program so the viewer can record the program. Still further, Alexander discloses an advertisement that displays information about a product, wherein a user may initiate a selection to record a later broadcast infomercial about the product.

However, Alexander does not suggest receiving broadcast audio and video content along with a promotional metadata file associated with the broadcast audio and video content. Alexander teaches that the advertisement and the program are decoupled and that the infomercial is broadcast later and recorded at that time.

Alexander also does even mention storing the promotional metadata file and parsing the promotional metadata file.

Alexander also does not disclose receiving a user selection to view the promotion type of the promotional metadata file associated with the broadcast audio and video content. The advertisement described by Alexander is associated with a product and is in no way associated with broadcast audio and video content.

Alexander does not suggest presenting the promotion type associated with the broadcast audio and video content to the user including a selectable option for the user to store the promotion type on a user-defined storage device for future viewing during presentation of the promotion type. Alexander merely describes being able to initiate a selection that enables the later broadcast infomercial to be recorded.

Thus, Fries and Alexander, alone or in combination, fail to disclose, teach or suggest the invention as defined in independent claims 16 and 27, as amended.

Tomsen fails to remedy the deficiencies of Fries. Tomsen merely discloses a transaction that can be conducted using the interactive television systems. According to Tomsen, a television commercial is displayed on the television set for viewing by a viewer. The television commercial may have an indicator to indicate the availability of supplemental information, which the viewer can access using a user input device. The indicator may be a "Buy" or a "Buy Later" button that invites the viewer to buy a product. Activation of the indicator to select a "Buy" option initiates a transaction associated with the television commercial by sending a command to the set top box. If the viewer uses the remote control unit to "click" the "Buy later" selection, then the transaction is deferred. Thus, when the television commercial has finished playing, and therefore, the viewer does not wish the transaction to interfere with or distract from the program, deferral of the transaction may include saving information metatags, "snapshots" of the television commercial, or other information useable for future completion of the transaction. This information may be saved in the set top box or in one or more other suitable storage locations.

However, it is clear that any promotion type or metadata is not associated with the broadcast audio and video content. Rather, Tomsen clearly states that that initiator is associated with the promotion type alone. Thus, Tomsen teaches that the advertisement and the program are decoupled.

Tomsen also does even mention storing a promotional metadata file associated with the broadcast audio and video content or parsing a promotional metadata file associated with the broadcast audio and video content.

Tomsen also does not disclose receiving a user selection to view the promotion type associated with the broadcast audio and video content. The advertisement described by Tomsen is associated with a product and is in no way associated with broadcast audio and video content, which Tomsen clearly describes the user may not want to interrupt.

Tomsen does not suggest presenting the promotion type associated with the broadcast audio and video content to the user including a selectable option for the user to store the promotion type on a user-defined storage device for future viewing during presentation of the promotion type. Tomsen merely describes an initiator for deferring the buy decision. Even though the system may be setup to, in some instances, record a snapshot of a commercial, the initiator is not a selectable option for specifically storing the promotion type on a user-defined storage device.

Thus, Fries, Alexander and Tomsen, alone or in combination, fail to disclose, teach or suggest the invention as defined in independent claims 16 and 27, as amended.

Lawler fails to remedy the deficiencies of Fries, Alexander and Tomsen. Lawler is merely cited as disclosing the displaying of data items on a television display, the data items including a show date, show time and tune action. Lawler is further cited as disclosing determining whether the promotion is for an event that is presently playing using the data items, the data items including a show date and show time. Still further, Lawler is cited as disclosing the setting a reminder, when a program reminder is selected and the event is not presently playing. Lawler is further cited as disclosing tuning an event, when the event is presently playing.

However, Lawler does not suggest receiving broadcast audio and video content along with a promotional metadata file associated with the broadcast audio and video content. Lawler also does even mention storing the promotional metadata file and parsing the promotional metadata

file. Lawler also does not disclose receiving a user selection to view the promotion type of the promotional metadata file associated with the broadcast audio and video content.

Lawler does not suggest presenting the promotion type associated with the broadcast audio and video content to the user including a selectable option for the user to store the promotion type on a user-defined storage device for future viewing during presentation of the promotion type.

Thus, Fries, Alexander, Tomsen and Lawler, alone or in combination, fail to disclose, teach or suggest the invention as defined in independent claims 16 and 27, as amended.

Matthews fails to remedy the deficiencies of Fries, Alexander, Tomsen and Lawler. Matthews is merely cited as disclosing setting a reminder and automatically tuning to the channel after the reminder has been displayed.

However, Matthews does not suggest receiving broadcast audio and video content along with a promotional metadata file associated with the broadcast audio and video content. Matthews also does even mention storing the promotional metadata file and parsing the promotional metadata file. Matthews also does not disclose receiving a user selection to view the promotion type of the promotional metadata file associated with the broadcast audio and video content.

Matthews does not suggest presenting the promotion type associated with the broadcast audio and video content to the user including a selectable option for the user to store the promotion type on a user-defined storage device for future viewing during presentation of the promotion type.

Thus, Fries, Alexander, Tomsen, Lawler and Matthews, alone or in combination, fail to disclose, teach or suggest the invention as defined in independent claims 16 and 27, as amended.

Dependent claims 17-26 and 28-32 are also patentable over the references, because they incorporate all of the limitations of the corresponding independent claims 16 and 27, respectively. Further dependent claims 17-26 and 28-32 recite additional novel elements and limitations. Applicant reserves the right to argue independently the patentability of these additional novel aspects. Therefore, Applicant respectfully submits that dependent claims 17-26 and 28-32 are patentable over the cited references.


On the basis of the above amendments and remarks, it is respectfully submitted that the claims are in immediate condition for allowance. Accordingly, reconsideration of this application and its allowance are requested.

If a telephone conference would be helpful in resolving any issues concerning this communication, please contact Attorney for Applicant, David W. Lynch, at 865-380-5976. If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 13-2725 for any additional fee required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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